

Notice of Allowability

Application No.

10/656,444

Examiner

Victor K. Hwang

Applicant(s)

GARCIA, GUSTAVO N.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the application as filed September 8, 2003.
2. ☒ The allowed claim(s) is/are 7,9 and 11.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date Sept. 8, 2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20060525.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

JEROME DONNELLY
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ashkan Najafi on May 25, 2006.

2. The application has been amended as follows:

In the Specification:

- A) Page 4, line 13, replace "12" with --17--.

In the Claims:

- A) Cancel claims 1-6, 8, 10 and 12-15.
- B) Amend claim 7 as follows:

7. (Currently Amended) A portable upper body exercise apparatus comprising:
a central bar member having a hollow interior and opposed end portions, said central bar member further having a plurality of apertures disposed between said opposed end portions and about a perimeter of said central bar member;
a plurality of telescopic end members being removably insertable into the hollow interior of said central bar member so a length of said apparatus can be selectively adjusted;

a plurality of rigid handle members and a plurality of fastening members for selectively attaching same to said central bar member by passing through at least a selected one of said plurality of apertures, said plurality of handle members having first and second portions integral with each other wherein said first portion extends substantially perpendicularly from said central bar member and said second portion extends obliquely from said first portion; and

a plurality of grip members attached to said second portion of said plurality of handle members respectively.

3. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: in Fig. 1, remove the reference character "12". In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

4. The following is an examiner's statement of reasons for allowance: the prior art of record fails to disclose or make obvious a portable upper body exercise apparatus comprising a hollow, central bar member having a plurality of apertures disposed about its perimeter and between its ends, and a plurality of handle members selectively attached to the central bar member by respective fastening members passing through selected apertures, the handle members being rigid and having a first portion integral to a second portion having a grip with the second portion extending obliquely from the first portion.

The prior art disclose various hollow bar members that have ends telescopic relative to the central bar member. See *Christensen* (US Pat. 3,342,484), *Hinckley* (US Pat. 3,642,278),

Guridi (US Pat. 4,657,242), *Montgomery* (US Pat. 4,858,917), *Favot* (US Pat. 4,872,667), *Gangloff* (US Pat. 5,389,055), *Zislis* (US Pat. 5,518,485), *Albergo* (US Pat. 5,536,229) and *Maruca* (US Pat. 6,398,673 B1) as examples. Some of the telescopic ends are adapted for securing between two supports or surfaces, vertical and horizontal surfaces.

The prior art also disclose structure that can be considered as handles selectively secured to the hollow bar member by fasteners. See *Hoffman* (US Pat. 3,207,511), *Hinckley* (US Pat. 3,642,278), *Mojden* (US Pat. 4,620,701), *Montgomery* (US Pat. 4,858,917), *Gangloff* (US Pat. 5,389,055), *Vanderbleek* 9US Pat. 5,417,628), *Zislis* (US Pat. 5,518,485), *Albergo* (US Pat. 5,536,229), *Barr* (US Pat. 6,179,749 B1), *Kallassy* (US Pat. 6,217,483 B1) and *Maruca* (US Pat. 6,398,673 B1).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
May 25, 2006